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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,386	02/20/2002	Clifford F. Sharp	58875/P001CP1CP1/10111610	5842
29053 7590 04/06/2007 DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P. 2200 ROSS AVENUE SUITE 2800 DALLAS, TX 75201-2784			EXAMINER JUNG, DAVID YIUK	
			ART UNIT 2134	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
31 DAYS			04/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/078,386	<b>Applicant(s)</b> SHARP ET AL.	
	<b>Examiner</b> David Y. Jung	<b>Art Unit</b> 2134	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) 9-25 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments have been fully considered. In particular, Applicant's arguments have caused the Office to reconsider the interpretation of the claims. Upon the study of the claims, the claims have been discovered to be of several inventions. While this is the second restriction on this case, the Office notes this restriction has occurred after the first set of arguments from Applicant. Until Applicant gave arguments regarding the Office's original interpretation, the Office was not aware of the issues raised by Applicant's arguments. See next section.

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121:

Group I, claims 9-11, drawn to diverting to temporary storage, class 711, subclass 170.

Group II, claims 12-21, drawn to packet handling after attainment of packet flow volume reaching a certain level, class 718, subclass 105.

Group III, claims 22, drawn to preventing data from passing a point of a preset limit, class 709, subclass 235.

Group IV, claims 23-25, drawn to a delay path, class 710, subclass 100.

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Inventions I-IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions I-IV have separate utility such as the cited subject matter to which they have been drawn (diverting to temporary storage, packet handling after attainment of packet flow volume reaching a certain level, preventing data from passing a point of a preset limit, a delay path). See MPEP § 806.05(d). Because these inventions are distinct for the reasons given above and each of the search required for each of the separate Groups I-IV is not required for the other Groups among them, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

### ***Conclusion***

The art made of record and not relied upon is considered pertinent to applicant's disclosure. The art disclosed general background.

### ***Points of Contact***

**Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

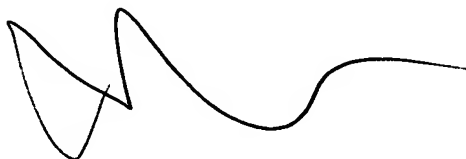
(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Kambiz Zand whose telephone number is (272) 272-3811.

David Jung

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Patent Examiner

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned to the right of the printed name 'David Jung'.

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4/1/07

A handwritten signature in black ink, consisting of a large, stylized capital 'D' followed by a horizontal line that curves upwards and to the right.